APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,381	04/19/2004	John Grundy	3652-46	9718

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER
FRANCIS, MARK P

ART UNIT	PAPER NUMBER
2193	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/826,381	GRUNDY ET AL.
	Examiner	Art Unit	
	Mark P. Francis	2193	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>19 April 2004</u>.

2a)☐ This action is **FINAL**.　　2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18* is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *19 April 2004* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All　b)☐ Some * c)☐ None of:

　　　1.☐ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

WILLIAM WOOD
PRIMARY EXAMINER

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date <u>06/29/05</u>.

4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1. This action is responsive to the application filed on April 19, 2004.

2. Claims 1-18 have been examined.

Priority Date

3. The priority date considered for this application is April 17, 2003.

Oath/Declaration

4. The Office acknowledges receipt of a properly signed oath/declaration filed July 6, 2004.

Drawings

5. The use of the trademarks XML and SQL Server has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

6. The XML forming part in Figs. 1 and 17 of the claimed design is a registered trademark of Worl Wide Web Consortium. The specification must be amended to include a statement preceding the claim identifying the trademark material forming part of the claimed design and the name of the owner of the trademark.

The MS SQL Server forming part in Fig. 19 of the claimed design is a registered

trademark of Microsoft Corporation. The specification must be amended to include a

statement preceding the claim identifying the trademark material forming part of the

claimed design and the name of the owner of the trademark.

Claim Rejections - 35 USC § 112

7.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

8.   Claims 5-6,11,16, and 18 rejected under 35 U.S.C. 112, second paragraph, as

being indefinite for failing to particularly point out and distinctly claim the subject matter

which applicant regards as the invention.

Claims 5,11,16, and 18 contains the trademark/trade name XML. Where a

trademark or trade name is used in a claim as a limitation to identify or describe a

particular material or product, the claim does not comply with the requirements of 35

U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App.

1982). The claim scope is uncertain since the trademark or trade name cannot be used

properly to identify any particular material or product. A trademark or trade name is

used to identify a source of goods, and not the goods themselves. Thus, a trademark or

trade name does not identify or describe the goods associated with the trademark or

trade name. In the present case, the trademark/trade name is used to identify/describe

a specific form of Standard Generalized Markup language and, accordingly, the

identification/description is indefinite.

Claim Rejections - 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the

rejections under this section made in this Office action:

6.   A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by
another filed in the United States before the invention by the applicant for patent or (2) a patent
granted on an application for patent by another filed in the United States before the invention by the
applicant for patent, except that an international application filed under the treaty defined in section
351(a) shall have the effects for purposes of this subsection of an application filed in the United States
only if the international application designated the United States and was published under Article 21(2)
of such treaty in the English language.

7.   Claims 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Lau.

(U.S. PGPUB 2003/0204481)

Independent claims

With respect to claims 1,14, and 17, Lau discloses in a computer system(Col 2:0023,

"...comprises a computing device...") having a graphical user interface(Col 2:0023, "...a

graphical user interface...") including a display(Col 2:0023, "...A display...") and a

selection device,(Col 2:0023, "...a user input mechanism...") a method of generating a

high level design of a distributed system test bed,(Col 3:0029, "...XML schema object

model...") the method comprising the steps of: defining a meta-model of the test bed;

(Col 3:0031, "...XML schema object model...")defining at least two architecture

modeling elements within the architecture model to form an architecture model

associated with the meta-model; (Col 3:0036, "...a The icons represent various XML

schema being edited...")

defining at least one relationship between a pair of architecture modeling elements; (Col

3:0037, "...show the hierarchy interrelationships between the various XML schema

component objects...")defining properties associated with at least one of the

architecture modeling elements;(Col 4:0039, "...or attribute for the purpose of setting its

type to a user-defined...")

and storing the high level design in computer memory. (Col 2:0023, "...stored in volatile

memory...")

With respect to claims 7 and 15, Lau discloses in a computer system(Col 2:0023,

"...comprises a computing device...") having a graphical user interface(Col 2:0023, "...a

graphical user interface...") including a display(Col 2:0023, "...A display...") and a

selection device, (Col 2:0023, "...a user input mechanism...") a method of defining a

meta-model of a distributed system test bed, (Col 3:0029, "...XML schema object

model...")the method comprising the steps of:

defining at least two modeling elements within the meta-model; (Col 3:0036, "...a The

icons represent various XML schema being edited...")

defining at least one relationship between a pair of the modeling elements; (Col 3:0037,

"...show the hierarchy interrelationships between the various XML schema component

objects...") and storing the meta-model in computer memory. (Col 2:0023, "...stored in volatile memory...")

With respect to claims 5 and 16, Lau discloses a method of adding performance test bed generation capability to a software design tool comprising the steps of: providing means for defining a high level design of the test bed; (Col 3:0029, "...XML schema object model...")

providing means for generating an XML-encoded architecture design from the high level design; (Col 4:0040, "...XML schema under development in the form of textual XML source code...")

and providing means for applying a set of XSLT transformation scripts to the XML-encoded architecture design to generate test bed code. (Col 3:0037, "...show the hierarchy interrelationships between the various XML schema component objects...")

With respect to claims 11 and 18, Lau discloses a method of adding performance test bed evaluation capability to a software design tool comprising the steps of:

providing means for defining a high level design of the test bed; (Col 3:0029, "...XML schema object model...")

providing means for generating an XML-encoded architecture design from the high level design; (Col 3:0029, "...XML schema object model...")

providing means for applying a set of XSLT transformation scripts to the XML-encoded

architecture design to generate test bed code; (Col 3:0037, "...show the hierarchy

interrelationships between the various XML schema component objects...")

providing means for deploying the test bed code; (Col 4:0040, "...XML schema under

development in the form of textual XML source code...")

providing means for signaling test commands; (Col 7:0060, "...include a series of

conditional code branches...")

providing means for collecting test results; (Col 4:0040, "...XML schema under

development in the form of textual XML source code...")

and providing means for analyzing the test results to evaluate the performance test bed.

(Col 4:0039, "...or attribute for the purpose of setting its type to a user-defined...")

With respect to claim 12, Lau discloses In a computer system having a graphical user

interface(Col 2:0023, "...a graphical user interface...") including a display (Col 2:0023,

"...A display...") and a selection device, (Col 2:0023, "...a user input mechanism...") a

method of generating a performance test bed, the method comprising the steps of:

displaying a display panel to a user; (Col 2:0023, "...A display...")

receiving a user selection of two or more modelling elements within a meta-model; (Col

3:0036, "...a The icons represent various XML schema being edited...")

displaying the modelling elements within the display panel; (Col 3:0036, "...a The icons

represent various XML schema being edited...")

receiving a user selection for at least one relationship between a pair of the modelling

elements; (Col 3:0037, "...show the hierarchy interrelationships between the various

XML schema component objects...")

displaying a representation of the at least one relationship between the pair of modelling

elements within the display panel; (Col 3:0037, "...show the hierarchy interrelationships

between the various XML schema component objects...")

receiving a user selection of two or more architecture modelling elements associated

with the modelling elements; (Col 3:0037, "...show the hierarchy interrelationships

between the various XML schema component objects...")

displaying the architecture modelling elements within the display panel; (Col 6:0050,

"...The XML schema object model...")

receiving a user selection for at least one relationship between a pair of the architecture

modelling elements; (Col 3:0037, "...show the hierarchy interrelationships between the

various XML schema component objects...")

displaying a representation of the at least one relationship between the pair of the

architecture modelling elements; (Col 10:0073, '...bi-directional association

relationship...")

and applying a set of transformation scripts to the architecture modelling elements to

generate test bed code. (Col 3:0037, "...show the hierarchy interrelationships between

the various XML schema component objects...")

Dependent claims

With respect to claim 2, the rejection of claim 1 is incorporated and further Lau discloses

that at least one architecture modelling element comprises an architecture host. (Col

6:0050, "...The XML schema object model...")

With respect to claim 3, the rejection of claim 1 is incorporated and further Lau discloses

that at least one architecture modeling element comprises an architecture operation

host. (Col 6:0050, "...The XML schema object model...")

With respect to claim 4, the rejection of claim 1 is incorporated and further Lau discloses

that at least one architecture modelling element comprises an architecture attribute

host. (Col 4:0039, "...or attribute for the purpose of setting its type to a user-defined...")

With respect to claim 6, the rejection of claim 5 is incorporated and further Lau discloses

comprising the steps of: applying the set of XSLT transformation scripts to generate

program source code and compilation scripts; (Col 3:0037, "...show the hierarchy

interrelationships between the various XML schema component objects...")
and compiling the program source code using the compilation scripts to generate the

test bed code. (Col 3:0037, "...show the hierarchy interrelationships between the

various XML schema component objects...")

With respect to claim 8, the rejection of claim 7 is incorporated and further Lau discloses

that at least one modelling element comprises an architecture meta-model host. (Col 6:0050, "...The XML schema object model...")

With respect to claim 9, the rejection of claim 7 is incorporated and further Lau discloses that the at least one modelling element comprises an architecture meta-model operation host. (Col 6:0050, "...The XML schema object model...")

With respect to claim 10, the rejection of claim 7 is incorporated and further Lau discloses that that at least one modeling element comprises an architecture meta-model attribute host. (Col 3:0037, "...show the hierarchy interrelationships between the various XML schema component objects...")

With respect to claim 13, the rejection of claim 12 is incorporated and further Lau discloses comprising the steps of: applying the set of transformation scripts to generate program source code and compilation scripts; (Col 6:0050, "...The XML schema object model...")
and compiling the program source code using the compilation scripts to generate the test bed code. (Col 3:0036, "...a The icons represent various XML schema being edited...")
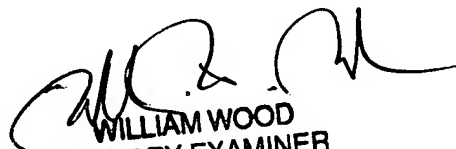
Conclusion

8.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

9.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Mark P. Francis whose telephone number is (571)272-

7956. The examiner can normally be reached on Mon-Fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Meng-Ai T.An can be reached on (571)272-3756. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mark P. Francis

Patent Examiner

Art Unit 2193

WILLIAM WOOD
PRIMARY EXAMINER